

The SAMHSA National GAINS Center



“Collateral Consequences: Involvement in the Criminal Justice System”

**Net/Teleconference
Tuesday, January 18, 2011
3:00-5:00 pm, Eastern Time**

Presenters:

Guy Gambill

Sean Clark

Gretchen Rohr

Clarence Jordan

Roberta Meyers-Peebles

Overview of SAMHSA JDTR Projects

- 13 states
- Grants to support local implementation and statewide expansion of trauma informed jail diversion programs for people with PTSD and other trauma related disorders
- Prioritize eligibility for veterans
- Veterans part of state and local committees
- Peers involved along a continuum of activities

JDTR Grantees

2008 Grantees

- Colorado
- Connecticut
- Georgia
- Illinois
- Massachusetts
- Vermont

2009 Grantees

- Florida
- New Mexico
- North Carolina
- Ohio
- Rhode Island
- Texas

2010

- Pennsylvania

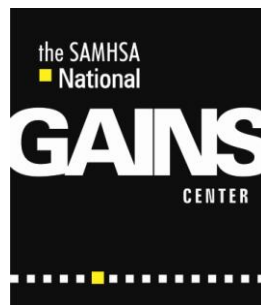
Role of National GAINS Center

- Provides training, annual meetings and technical assistance in these areas:
 - Infrastructure development
 - Incorporating veteran's voices
 - Jail diversion, linkages and reentry programs
 - Trauma informed systems and trauma specific services
 - Systems mapping
 - Sustainability

Learning Objectives


- Participants will learn the following:
 - What constitute a collateral consequence
 - The impact of collateral consequences in areas such as housing and employment
 - Strategies for eliminating or mitigating collateral consequences
 - How Supporting staff and prospective staff address collateral consequences
 - New shifts and public policy directions

An Overview of the Collateral Consequences of Contact with the Justice System



National GAINS Center Webinar January 18, 2011

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“When someone has been judged guilty and the appellate and collateral review process has ended, the legal profession seems to lose all interest. When the prisoner is taken away, our attention turns to the next case. When the door is locked against the prisoner, we do not think about what is behind it. We have a greater responsibility. As a profession, and as a people, we should know what happens after the prisoner is taken away.”

Justice Anthony M. Kennedy, 2003 Address to the ABA

- **The Collateral Consequences (often referred to as the “*unintended collateral consequences*” of justice contact) refer to those categories of impact which follow the arrest and/or conviction of a member of our society that have not been stipulated or proscribed under Federal or State Statute.**

- **Collateral Sanctions refer to those impacts set forth in the law**

It has become common to use the term collateral consequences as a term encompassing both sets of impacts.

Breaking down consequences by category

Justice Kennedy's speech in 2003 spurred the formation of the **Justice Kennedy Commission**. The Commission ultimately forwarded a body of recommendations articulating reforms needed in our justice system, including within the realm of re-entry. Those recommendations may be found on the ABA web-site here;

<http://www.abanet.org/media/jkcrecs.html>

The Urban Institute and the **Re-entry Policy Council** carried on the work of the Kennedy Commission and provided further definition of post-justice contact. The categories of consequences may be broken down as follows;



Consequences by category (includes both sanctions and consequences)

- I. Employment-related impacts
- II. Housing-related impacts
- III. Disenfranchisement
- iv.** The Loss of eligibility for public assistance
- v. The loss of the right to travel freely, without restriction.
- vi.** Other consequences.



Department of Veterans Affairs

VA Programs for Justice-Involved Veterans

January 18, 2011

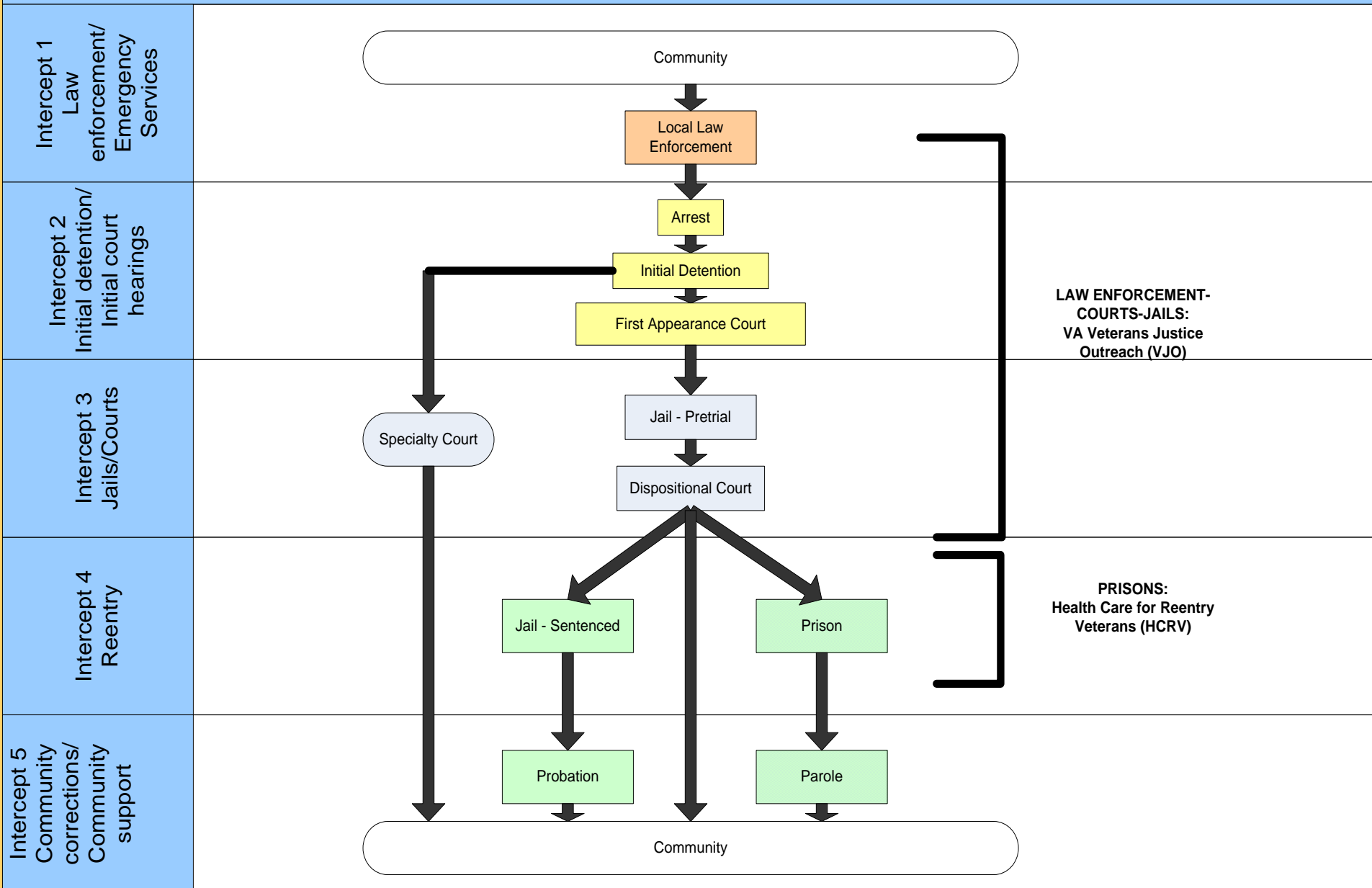
**Collateral Consequences:
Involvement in the Criminal Justice
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**SAMHSA National GAINS Center
Webinar**

**Sean Clark, J.D.
National Coordinator, Veterans
Justice Outreach**

**VHA Office of Mental Health
Services**

Sequential Intercept Model





Health Care for Reentry Veterans (HCRV)

- Operational since 2007
- 44 HCRV Specialists
- Conduct outreach/assessment while incarcerated
- Engage in treatment and rehabilitation to:
 - Prevent homelessness
 - Readjust to community life
 - Desist from commission of new crimes or parole or probation violations
- Promote successful community integration of reentry Veterans

Veterans Justice Outreach (VJO) Program

- Operational since 2009
- VJO Specialist in every VA medical center (153 total)
- Outreach to Veterans in contact with law enforcement, jails, and courts
- Goal is to provide timely access to VA services for eligible justice-involved Veterans to avoid unnecessary criminalization and incarceration of Veteran defendants and offenders with mental illness and/or traumatic brain injury (TBI).
- Veterans Treatment Courts: 50 operational
 - <http://www.nadcp.org/learn/veterans-treatment-court-clearinghouse>
 - Volunteer Veteran Mentors

Barriers and Strategies

- Employment

- Compensated Work Therapy/Supported Employment (CWT/SE) programs
- Homeless Veterans Supportive Employment Program
 - 400 new Vocational Rehabilitation Specialists
 - All homeless, formerly homeless, or at-risk Veterans
- Department of Labor Incarcerated Veterans Transition Program
 - 16 grantees
 - Partnering with HCRV/VJO Specialists
 - Direct prison/jail outreach; job training, employment assistance, and supportive services
 - <http://www.dol.gov/vets/programs/ivtp/main.htm>

Barriers and Strategies (cont.)

- Child Support Obligations
 - One of homeless Veterans' highest-priority unmet needs (VA CHALENG Survey)
 - State laws vary re: tolling during incarceration; procedures for modification
 - Pro bono legal services
- Problematic Discharges

Points of Contact

- Health Care for Reentry Veterans Specialists:
 - <http://www1.va.gov/HOMELESS/Reentry.asp>
- Veterans Justice Outreach Specialists by medical center:
 - <http://www1.va.gov/HOMELESS/VJO.asp>
- Sean Clark, National Coordinator, Veterans Justice Outreach
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VA Services

- Health:
 - Physical health: prevention, medical and specialty
 - Mental health: medication, inpatient, outpatient, mental health/substance abuse services, homeless/housing services, evidence-based treatments; supported employment, consumer/peer supports
- Benefits: disability compensation, pensions, education and training, vocational rehabilitation, home loan guaranty, life insurance
- Cemetery: burial and memorial benefits

Limits on VA Authorization

- Can provide:
 - Outreach, assessment, referral and linkage to services
 - Treatment for justice-involved Veterans who are not incarcerated
- Title 38 CFR 17.38 does not allow VHA to provide:
 - Hospital and outpatient care for a Veteran who is
 - Either a patient or inmate in an institution of another government agency
 - If that agency has a duty to give that care or services

HCRV: Progress

- Prisons engaged
 - Visiting Veterans in 955 of 1319 U.S. State and Federal Prisons (72%) FY10, up from 344 prisons in FY08
- Veterans contacted
 - Over 23,000 since September 2007
 - Number of Veterans released from prison each year: 29-56,000 (Bureau of Justice Statistics (BJS) estimate)
 - Average number of previous arrests: 8



Collateral Consequences: An Employer & Advocate's Perspective

OBJECTIVES:

- 1) Dispel a few myths about employing survivors of criminal justice and mental health systems,
- 2) Offer some tips from experience helping employees navigate collateral consequences of conviction,
- 3) Share info on DC's latest public policy reform efforts.

Gretchen Rohr, *University Legal Services*

University Legal Services

- ULS established in 1967, designated in 1996 as D.C.'s disability protection and advocacy agency under several federal statutes including, *Protection and Advocacy for Persons with Mental Illness Act, [PAIMI] 42 U.S.C.A. §§ 10801 et seq.*
- Mandate: Protect the human, legal and service rights of DC residents with disabilities through legal services, advocacy and direct monitoring and investigation into abuse and neglect.

ULS Dc Jail Advocacy Project

- The DC Jail Advocacy Project was developed by ULS in 2007 to address the unique needs of youth and adults with psychiatric disabilities who navigate both the criminal justice and mental health systems. The goal of the Project is to prevent unnecessary incarceration and remove the barriers which youth and adults with psychiatric disabilities face while seeking social integration, access to quality healthcare and support for their major needs as they transition out of jail or prison.

Project Priorities

- ❑ Reduce periods of incarceration and remove barriers to mental healthcare and fundamental supports for individuals' safe return to the community from jail and select federal prisons.
- ❑ Develop education and training to empower self-help/peer supports and enhance public understanding of the rights of criminal-justice involved youth and adults with mental illness
- ❑ Inform, strengthen and leverage the District's commitment to community-based public health to reduce reliance on incarceration.

For a complete list of our 2010-2011 Objectives please visit www.uls-dc.org/DCJAP.htm

Staff

- **Gretchen Rohr**
 - **Director and Staff Attorney** brought previous class action prison litigation experience and years providing direct advocacy around discharge planning and release from state psychiatric hospitals to developing an interdisciplinary approach to reentry advocacy.
- **Wallace Kirby**
 - **Community Organizer** hired with extensive experience mobilizing neighbors in DC's Marshall Heights community and advocating for reform alongside other people with disabilities after surviving almost two decades in federal prisons and forensic hospitals.
- **Ilana Marmon**
 - **Reentry Advocate** hired with 6 years experience as a licensed social worker treating homeless individuals with chemical addictions and mental illness involved in New York's criminal justice system.
- **Louis Sawyer**
 - **Peer Advocate** hired with broad range of reentry activism through faith-based and civic volunteerism after release from 25 years in federal prison and engagement with mental health recovery supports.
- **LaTria Rogers**
 - **Supportive Housing Coordinator** hired with 5 years case management experience after providing social services and benefits planning to homeless adults with mental illness residing at the District's largest shelter.

Myths Re: Hiring CJMH Survivors

MYTH:

Someone recently released from a prison term, or released after a *long* prison term is less reliable than someone who has been out for a long time or served a short time.

- Never underestimate the power/motivation behind a fresh start!
- Honestly evaluate how relevant certain job 'requirements' (*i.e. permanent housing or a car*) are to the position.
- Recently returning citizens may be able to take advantage of more reentry support resources (*i.e. salary matching programs, job coaching or support groups*).
- Be resourceful, yet cautious, in utilizing law/parole enforcement assistance.

Myths Re: Hiring CJMH Survivors

MYTH:

An employee who shares many of the same experiences as the clients will be too focused on solving their own problems to be able to help the clients.

- Don't hire someone to fill a token position—hire someone who can get the job done through a comprehensive vetting process.
- Agencies should train staff on clear Conflict of Interest Policies.
- Obtaining other basic supports need not interfere with job responsibilities.
- An employee who has a *lot* of personal needs to tend to, may be more appropriate for a flexible hour or part time position.

Myths Re: Hiring CJMH Survivors

MYTH:
Other employees won't be comfortable working with the person OR the new employee won't fit in with the office.

- Supervisors should ask their new employees if they want any information shared with others in the office and how they would like that information shared.
- Fact sheets and guidance offered at: www.stopstigma.samhsa.gov/publications/livesatwork.aspx
- Assess your agency's recovery culture
- See, www.patdeegan.com, see also, www.store.samhsa.gov/product/SMA09-4463 see also, <http://dsgdev2.dsgonline.com/rtp/GlossaryOfTerms.aspx>
- Expand hiring to reduce tokenism—a more diversified workplace provides a sense of safety and belonging for everyone who identifies as a minority.

Myths Re: Hiring CJMH Survivors

MYTH:

My workplace is too stressful for someone with a mental illness to handle and the possibility of a crisis would interfere with everyone's ability to do their job.

- Indeed, there is much guidance for employers on how to ensure lawful accommodations are afforded to employees with disabilities.
- See, Maximizing Productivity: Accommodations for Employees with Psychiatric Disabilities, <http://www.dol.gov/odep/pubs/fact/psychiatric.htm>
- Yet *EVERY* employee may require individualized supports, understanding and flexibility from their supervisor during an unexpected crisis.
- Create a mental-health friendly environment so the needs of all employees can be met without detracting from the work of others.
- See: *Workplaces that Thrive: A Resource for Creating a Mental Health Friendly Work Environments*, www.helppromotehope.com/documents/Workplaces_That_Thrive.pdf

TIPS for Fellow Employers

- Always provide a clear description of position responsibilities/criteria, employer expectations and organizational mission in the job posting.
- ULS example: All job announcements note:
- **PREFERRED QUALIFICATIONS:** *Personal experience within criminal justice system and/or mental health system a plus.*
- **RESTATED AT THE BOTTOM:** *ULS values diversity of culture, disability and other life experiences, and is an equal opportunity employer by choice. People with personal experience in the criminal justice system are welcome and encouraged to apply.*

Peer Advocate's Role in Transition Planning

- Provide navigational assistance by identifying and at times providing transport to resources and services in order to remove additional barriers to safe reintegration.
- Support at meetings with treatment staff and help the person find the right words and speak up so his/her needs are understood.
- Redress the unique forms of stigma faced by those seeking care in the correctional environment (often accused of malingering/hustling or written off as untreatable).
- Share tips to pursue and maintain recovery, employment, housing and offer tools in skill development and planning.
- Ensure providers and the advocacy team engage in person-centered planning- the consumer directs all collaboration on his/her behalf.
- Encourage development of healthy relationships and supportive networks to redress periods of solitude.
- Strengthen self-advocacy and social integration for 6 to 12 months after reentry through peer-based outreach support such home visits and phone calls.

Community Organizer's Role in Advancing Systemic Reform

- Support development of policy agenda and work plan, strategy and messaging.
- Advance coalition building with organizational and individual allies. Serve as liaison to psychiatric survivor groups and associations of formerly incarcerated peer networks.
- Coordinate meetings and conference sessions to engage target constituents, community leaders, organizations and key decision-makers in the campaign.
- Conduct outreach, skill-building and political education sessions to presently and formerly incarcerated people with mental illness and their allies and family members.
- Draft and distribute educational materials, action alert announcements in multiple media formats, and coordinate with Project Director to prepare media advocacy.
- Train spokespeople and periodically serve as public voice for advocacy issues identified by ULS and constituency.
- Assist Project Director with maintaining contacts with administrative and legislative staff to serve as educational resource.
- Develop/manage list-serve and policy alert system or electronic networking tools.

TIPS for Fellow Employers

- A multistage interview process may be helpful.
 - ULS' example 1) Applicant receives phone call from predecessor sharing info about the organization, easing applicant's comfort with sharing psychiatric or criminal history and answering preliminary questions. 2) Top applicants brought in for interview with Project Director and predecessor. 3) Finalists brought back to meet entire team and complete writing exercise soliciting responses to common work scenarios.
- If your agency works in institutions or other locations which may trigger memories for a survivor, it may be helpful to schedule an institutional visit prior to completing the employment agreement.

TIPS for Fellow Employers

- Schedule a **one-time** meeting with the new employee and his/her parole/probation officer in order to:
 - 1) ease the officer's concerns about the employee working with individuals in the criminal justice system,
 - 2) ideally, obtain in writing their authorization for the employee to work in/around certain facilities (i.e. if s/he needs to visit halfway houses, jails or prisons);
 - 3) confirm that you, as agency representative, are aware of the employee's convictions;
 - 4) kindly, but firmly, inform parole/probation that employment concerns/conflicts will be handled internally and not reported to the parole/probation supervision agency.



TIPS for Fellow Employers

- Be mindful of the how some collateral consequences (i.e. deprivations of freedom while under parole/probation supervision) may impact the job.
- Work closely with the employee to develop a method to ensure clear and advance notice of critical appointments that may occur during business hours (i.e. urine testing, therapy, supervision home visits).



TIPS for Fellow Employers

- Increase new employee's exposure to professional growth opportunities
 - Help all new staff identify a mentor (in the office or the community) who can offer some coaching, advice and support beyond that available through supervision.
 - Budget for training and certification that will build employees' confidence and career development
 - Budget time and money (research scholarships) for conferences organized by and for consumer-survivors to stay abreast of advances in the field. Both supervisor and employee should attend at least one.



A Final Point to Consider

- To the extent that the employee is comfortable, agencies that employ CJMH survivors should consider sharing their experiences publicly- to battle myths, guide public and private employers, and inform public policy.

DC's Public Employment Reform

"Returning Citizens Public Employment Inclusion Act of 2010" (Bill 18-826).

- **SUMMARY:**

Unless a position requires by law to have a background check, DC agencies cannot inquire about an applicant's criminal history on the application form. Employers may inquire at the time of an interview.

However, public employers must provide the applicant with an opportunity to explain his/her criminal history and they may not disqualify because of that history without first considering the following factors: 1) The specific duties and responsibilities of the position; 2) the bearing, if any, that an applicant's criminal background will have upon fitness or ability to perform job duties; 3) the time that has elapsed since the occurrence of the offense; 4) the age of the person at the time of the offense; 5) the frequency and seriousness of the offenses; 6) any information regarding rehabilitation and good conduct since the offense; and 6) the public policy that it is generally beneficial for individuals with criminal records to obtain employment.

DC's Public Employment Reform cont.

- Critical weaknesses-(opportunities for future advocacy)
 - Narrow public employment bill introduced after years of unsuccessful attempts to prohibit discrimination in private employment, housing and education.
 - Legislation does not impose proof of business necessity or rational relationship between criminal history and job duties.
 - Current legislation allows for consideration of arrests.
 - Private contractors of DC public agencies are not covered within the bill.
- Status
 - Pending Mayoral review due 1/19/11 and Congressional Review due to Home Rule
 - See enrolled bill at www.dccouncil.washington.dc.us/images/00001/20110105123729.pdf



University Legal Services DC Jail Advocacy Project

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**“...and the seven were worst than
the first.”**

Clarence Jordan
Director, Recovery & Resiliency
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Jail and Prison is not Boot Camp

- **M**isery (measure of despair previously unknown)
- **E**vil (ex-con, unbearable rage and guilt)
- **S**ide (seduced, illness and doctrine)
- **S**ide (suicidal, vacant esteem)



12 Step Programs

- Admitted Powerlessness
- Came to believe / greater than self
- Made a decision, not my will but thou
- Made fearless (moral) inventory



Allies

- Reality check – anchor / proper grounding
- Resources – no man is an island
- Reason – sense of purpose / atonement



Know Your Enemy

Personal stigma – (unworthiness)

“undoing effect of positive emotions”

Label avoidance – (living out of State)

“gear-up, move out”

Public stigma – (discrimination)

“engage and overcome”



Power of Beliefs:

“...for as he thinketh in his heart, so is he.” Proverbs 23:7

- Self-esteem: judgment we make concerning our own worth
- Contributions: spiritual, intellectual, emotional and material
- Gifts: love, peace, justice, humanity, faith and integrity

Veterans Connected to the Justice System: Supporting Successful Reentry through Employment

**Roberta Meyers-Peebles, Director
National H.I.R.E. Network**

*Webinar
Tuesday, January 18, 2011*

The Substantial Reach of the Criminal Justice System

- Over 7 million people are currently involved in the criminal justice system through incarceration, parole, or probation.
 - 1 in every 31 adults
- Over 81 million people have a criminal history on file with state government.
 - That means about 30% of the nation's adult population live a substantial portion of their lives having a criminal record.
- An estimated 60 percent are black and Latino, although they only make up 27% of the total U.S. population.

Veterans Connected to the Criminal Justice System

- In 1998, an estimated 56,500 Vietnam War-era veterans and 18,500 Persian Gulf War-era veterans were held in State and Federal prisons.
- Nearly 60% of incarcerated veterans had served in the Army.
- Among state prisoners, over half (53%) of veterans were white non-Hispanics, compared to nearly a third (31%) of non-veterans; among federal prisoners, the percentage of veterans who were white (50%) was nearly double that of non-veterans (26%).
- Among state prisoners, the median age of veterans was 10 years older than that of other prison and jail inmates.
- Among state prisoners, veterans (32%) were about 3 times more likely than non-veterans (11%) to have attended college.
- Veterans (30%) were more likely than other state prisoners (23%) to be first-time offenders.

Challenges are Significant for the Individuals with Criminal Record

- Stigma of criminal record and race-based discrimination
- Occupational Bars and Licensing Restrictions – often unrelated to the type of crime for which an individual was convicted
- Availability and Use of Criminal Records
- Lack of fair hiring standards in states

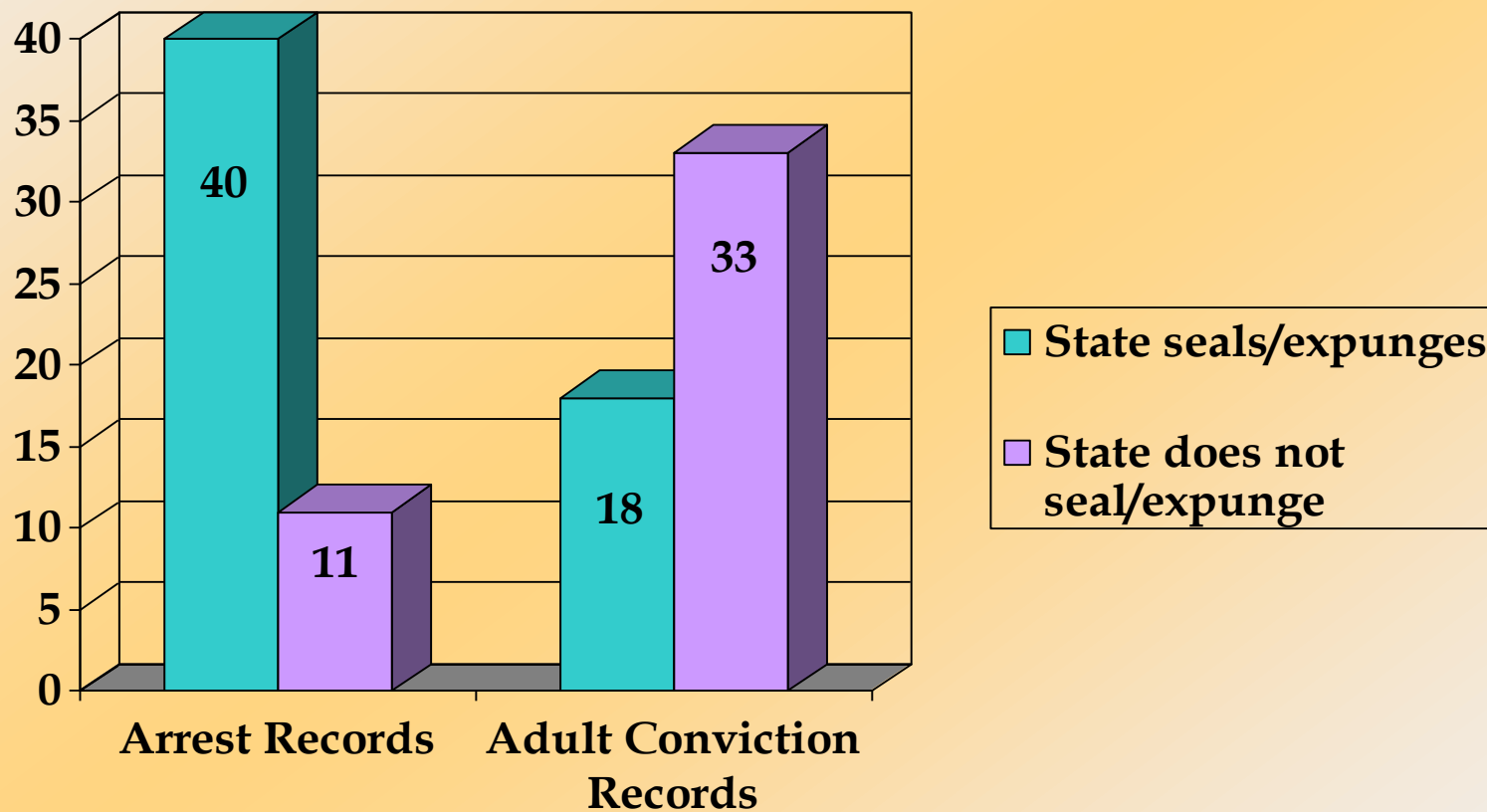
Employment Discrimination: What's the Law?

- The federal Equal Employment Opportunity Commission (EEOC) has issued policy guidance on use of arrest and conviction records in hiring decisions, which:
 - Preclude employers from denying someone with a record employment based solely on their conviction record.
 - Requires employers to consider the length of time since conviction and whether it is related to the job being sought.
- Discrimination based on a criminal record can be race discrimination in violation of Title VII of the Civil Rights Act of 1964 because of disparate impact of criminal justice system on people of color
- Some states have anti-discrimination laws or policies that apply to public and/or private employers or occupational licensing agencies. (17 states)

Inquiries and Consideration of Arrest Records by Employers

- 38 states *permit* public and private employers and occupational licensing agencies to ask about and rely upon arrests.
- 2 states limit public employers and occupational licensing agencies but not private employers.
- 1 state limits public employers but not private employers or occupational licensing agencies.
- 10 states *prohibit* any use of arrests that did not lead to conviction by employers. (CA, HI, IL, MA, MI, NY, OH, RI, UT, WI).

Access to Criminal Records



Availability of Criminal Records on the Internet

- 22 states put *all* conviction records on the Internet.
- 5 states make available records of those who are *currently serving criminal justice sentences*.
- 8 states make available records of those who are *currently incarcerated*.
- 16 states *do not* have records on the Internet.

State & Local Legislative Responses

- Supporting Transitional Jobs Model
- Creating Certificates of Rehabilitation or improving eligibility for pardon or restoration of right (AL, AZ, CA, CT, IL, IA, NJ, NY)
- Creating employment standards for the consideration of applicants with criminal records
- Limiting suspension/revocation of driver's license for individuals with drug related offenses
- Helping individuals to secure state identification
- Prohibiting inquiries about arrests that never led to conviction
- Creating or expanding sealing/expungement eligibility

RESOURCES

National H.I.R.E. Network

Helping Individuals with criminal records Reenter through Employment

National Policy/ Federal Legislation (202) 544-5478 www.lac.org

State Specific Questions (212) 243-1313 www.hirenetwork.org

Congressional legislative website, www.thomas.loc.gov

After Prison: Roadblocks to Reentry, www.lac.org/roadblocks-to-reentry/

National Reentry Resource Center, www.nationalreentryresourcecenter.org

National Institute of Corrections, www.nicic.org

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